

## **THE STATE OF NEW HAMPSHIRE**

### **DISTRICT COURT ADMINISTRATIVE ORDER 91-01 (Amended)**

This order is issued to update the previous version of District Court Administrative Order 91-01, and is effective immediately.

In any felony or misdemeanor case in which a defendant is detained following arrest, where the arrest was either warrantless or made after issuance of a warrant by a lay Justice of the Peace, the State shall be required to demonstrate probable cause for the defendant's arrest. Proof shall be by sworn affidavit and may be submitted by facsimile or other electronic transmission.

The detention review (formerly known as the Gerstein hearing) shall be held within forty-eight hours of the defendant's arrest. It shall be non adversarial and the defendant shall have no right to counsel. The defendant shall have neither the right to present nor cross-examine witnesses.

While it is recommended that detention reviews be held contemporaneous with bail hearings, in those cases where, pursuant to RSA 594:20-a, no arraignment will be held within forty-eight hours, the detention review may be accomplished at any time or place (within forty-eight hours of arrest) with or without the presence of the defendant.

Dated: June 16, 2006

Edwin W. Kelly  
Administrative Judge  
District Courts